



MEMO

DATE: October 21, 2022
TO: Planning and Sustainability Commission
FROM: Jeff Caudill, Environmental Planner
cc: Patricia Diefenderfer, Sallie Edmunds
SUBJECT: Floodplain Resilience Plan Work Session #1 Memo

On September 27, the PSC heard testimony on the Floodplain Resilience Plan. Before and after the testimony the PSC asked questions of staff. This memo will provide additional context for the plan summarize the testimony received and respond to questions raised by the PSC.

Purpose and City Floodplain Management Update Work Plan Components

Purpose

- Maintain access to FEMA floodplain insurance and disaster relief funds by complying with the directives of the FEMA Biological Opinion (FEMA BiOp) that was required of FEMA as a result of a legal settlement and the subsequent implementation guidance provided by FEMA, known as the *Oregon Implementation Plan for NFIP-ESA Integration*, which was published in October 2021.
- Reduce future flood risk for people and buildings along Portland's waterways.
- Expand floodplain habitat to contribute to the recovery of Portland's threatened and endangered fish species (i.e., salmon and steelhead).
- Continue the City's implementation of the *Floodplain Management Update Work Plan*.



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Components of the Floodplain Management Update Work Plan

In 2019, the directors of bureaus responsible for planning and development within the City signed on to the *Floodplain Management Update Work Plan*, which established a multi-faceted/multi-bureau approach to ensure continued compliance with FEMA directives and the Endangered Species Act moving forward.

The *Floodplain Management Update Project Work Plan* responds to the directives of the FEMA BiOp by identifying important City actions in three key task areas: Regulations, Mitigation Banking and Restoration. A brief description of the components in these task areas is provided below.

1. Regulatory Updates

- Zoning Code (Title 33) Updates
 - i. *Floodplain Resilience Plan* updates the Zoning Code in a number of locations throughout the city to continue progress on full implementation of the *Work Plan*. These updates include incorporating new flood risk mapping for the Willamette River; increasing mitigation requirements for development nearest the river in the Willamette River Central Reach; and expanding environmental zoning to ensure the undeveloped floodplain is protected and existing vegetation is preserved along the Columbia River, Columbia Slough, Fanno Creek, Tryon Creek, and Johnson Creek.
- Building Code (Title 24) Updates
 - i. BPS and BDS have been working collaboratively on the necessary updates to the Building Code. These proposed amendments were included in Discussion Draft of the Floodplain Resilience Plan and a variety of comments were received on the proposals at that time. The Building Code is not a land use regulation and is not in the oversight purview of the Planning and Sustainability Commission.

A separate BDS-led Building Code update project will be moving forward in the coming months, with the expectation that these changes will be at City Council at the same time as the Floodplain Resilience Plan. Generally, the proposed Building Code changes address the placement of soil and structures in the floodplain. The changes are expected to increase the volume of excavation required to offset the volume of soil or structures placed below the estimated flood elevation. The current excavation ratio is 1:1 for removal/addition of soil (known as "cut/fill"). The proposed changes would increase the ratio to require an excavation of ratio of up to 2:1, depending on the location of the proposed development within the floodplain. The ratio required for the developed floodplain is expected to stay at 1:1. The purpose of these changes is to ensure that flood conveyance is maintained with development so that there is no increased risk of flooding downstream of the development site.



It is expected that the Floodplain Resilience Plan will be at City Council in April or May of 2023 and that the proposed building code amendments would also be considered by the City Council at that time.

To get on a mailing list to receive information as the Title 24 project moves forward, please contact Nancy Thorington, Analyst II at BDS, at nancy.thorington@portlandoregon.gov.

2. Mitigation Banking (Habitat and Flood Storage)

- The Floodplain Resilience Plan project team has been working to identify opportunities to expand access to mitigation bank credits as an alternative to on-site mitigation. The River Environmental code currently allows for use of mitigation bank credits for off-site mitigation along the Willamette River. However, currently there are few mitigation banks available as an alternative to on-site mitigation. A few existing mitigation banks are expected to be able to sell credits in the near future for flood storage capacity to offset development impacts and meet City requirements. There are no mitigation banks currently available to offset impacts on floodplain habitat. The City is investigating options to expand the availability of mitigation banks for habitat and flood storage.
- Extensive due diligence has been completed by BES staff to evaluate the potential future demand and feasibility of mitigation banks in the city. Currently, there is a separate effort led by Commissioner Mapps's office that established an inter-bureau Mitigation Banking Finance Working Group to review and evaluate funding options for a City-funded and, possibly, managed mitigation bank at the Eastbank Crescent site (as a part of the OMSI redevelopment). This mitigation bank would be expected to provide both habitat and flood storage mitigation credits for future development along the Willamette River.
- Mitigation bank credits are expected to be most important to provide options for off-site mitigation once the proposed building code (Title 24) changes required to meet the FEMA BiOp directives are adopted. BES, BDS and BPS staff have worked to identify existing options for flood storage credits. Two existing mitigation banks that currently provide mitigation credits to support Portland Harbor Superfund related actions – RestorCap's Linnton Plywood site and PGE Harborton – have been determined to be a potential source for flood storage credits to be used to mitigate future floodplain development. City staff have been coordinating with National Marine Fisheries Service staff to determine a methodology to allow for use of these banks to meet City requirements. These mitigation banks are projected to have a sizeable number of flood storage credits and those credits are expected to be available to meet City requirements soon.

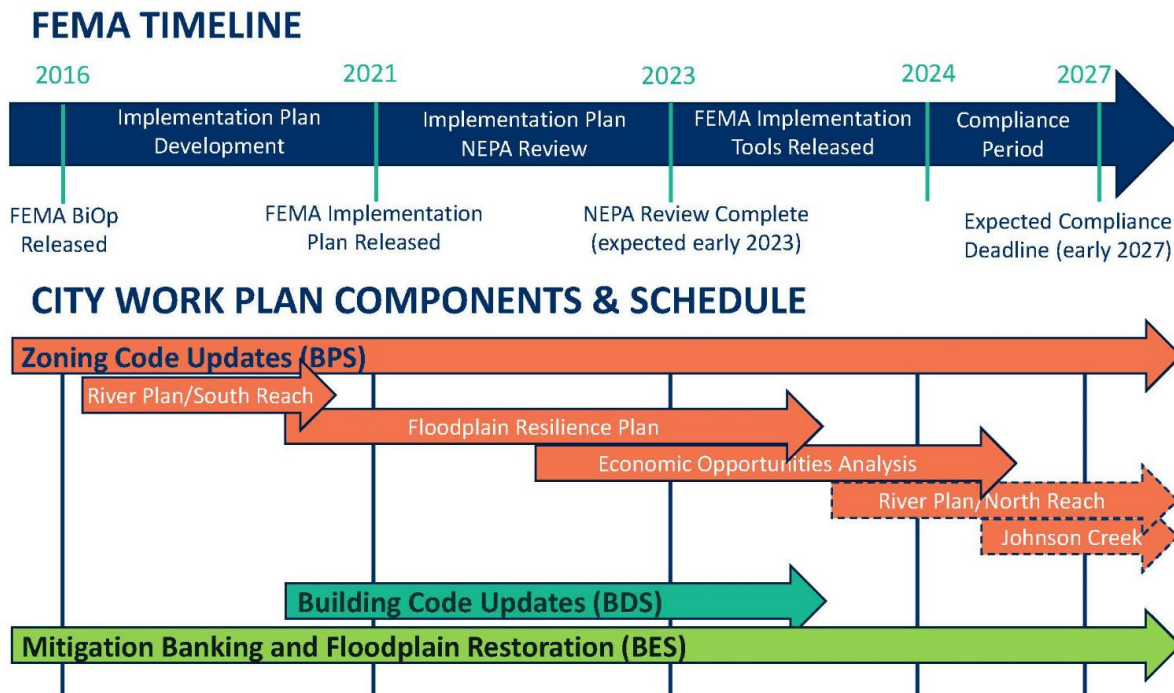


3. Floodplain Restoration

- The Floodplain Resilience Plan’s Action Plan supports the strengthening and expansion of the Bureau of Environmental Services (BES) floodplain restoration program to ensure on-going funding for acquisition to continue to improve floodplain habitat for wildlife and endangered and threatened fish. Expanding future funding for flood restoration projects is recommended for locations along the Willamette River, as well as the Columbia River and Slough. These restoration efforts are a key component of the City’s overall strategy to demonstrate compliance with the FEMA BiOp.

The Floodplain Resilience Plan is one piece of the City’s overall *Floodplain Management Update Project Work Plan*. The Work Plan recognized that a number of different City bureaus would need to complete updates and strengthen programs to meet the compliance deadline required by the FEMA BiOp and ensure long-term compliance with the Endangered Species Act. All jurisdictions participating in the FEMA National Flood Insurance Program are expected to be required to be in full compliance by early 2027.

The three main bureaus completing these updates are BPS, BDS and BES. As is shown in the graphic below, BPS will be working on a number of regulatory updates to the Zoning Code to meet the expected FEMA deadline, including future regulatory update projects associated with the Economic Opportunities Analysis (EOA), River Plan/North Reach and the Johnson Creek floodplain. BDS will be working on updates to the Building Code, as described above, and BES has been and will continue work focused on expanding mitigation bank options, as well as identifying important floodplain restoration sites. The graphic below identifies each component and how it fits into the overall FEMA timeline.



Descriptions of Floodplain Resilience Plan Proposals for Typical Sites

In the September 13th briefing and September 27th hearing, there was an interest by a few commissioners to have a clear, site-specific description of the implications of the Floodplain Resilience Plan Zoning Code proposals.

In general, plan proposals **in the Environmental (c and p) overlay zones** are focused on ensuring the preservation of trees in the floodplain by requiring similar tree replacement for both native and non-native, non-invasive trees. Currently, only removal of native trees is required to meet the Environmental overlay zone requirements (the Tree Code, Title 11, still applies to non-native trees). The proposal also increases the minimum number of trees to be planted when a tree is removed to 3 trees. Currently, only 1 or 2 trees are required to be planted, depending on the tree replacement option chosen.

In the River Environmental (e) overlay zone, the plan proposes to apply the riparian buffer area to all floodplains within 170 feet of ordinary high water in the Willamette River Central Reach (riparian buffer requirements are already in place in the Willamette River South Reach). Development proposed in the riparian buffer area is required to mitigate all impacts on identified natural resources *and* demonstrate an improvement in one of two floodplain-related riparian functions. Site improvements that could be employed to meet the riparian buffer area requirements include removing concrete or other impervious materials and restoring the riverbank to a natural condition, laying back the riverbank to provide shallow water habitat for fish, or placement of (anchored) large wood on the riverbank.

Two graphics summarizing the proposals in the Environmental and River Environmental overlay zones are provided in Attachment A.

Summary of Testimony Received

The PSC held a public hearing on the plan on September 27 at 6:00 PM. Requests to provide oral testimony were required to be submitted by September 26 at 4:00 PM. A total of 7 individuals provided testimony at the hearing. Written testimony was gathered via the project Map App until September 30, 2022.

A total of 55 pieces of testimony from 51 individuals was received, including testimony from the Audubon Society of Portland, Portland Harbor Community Coalition, and the Bureau of Development Services. Of these, 46 individuals submitted only written testimony, 5 individuals submitted just oral testimony and two individuals submitted both oral and written testimony.

A number of issues were raised in the oral and written testimony and are described below. The numbers provided include double counting when testimony raised multiple topics.



Topic	Testimony Submitted	# Written Testifiers	# Oral Testifiers
Adopt the Entire Plan	Support for the 'entire plan' as written in the Discussion Draft, with the inclusion of Title 24	32	4
Timing/Scope of the Project	Ask the project to be slowed down until more is known	1	1
	Ask to expedite the floodplain effort in industrial and other areas	9	4
Legal Risk	The City faces legal risk for violations of the Endangered Species Act		2
Natural Resource Protection	The City must respond to climate change and extreme weather events	9	1
Property Specific Concerns	Opposition to the River Environmental Overlay Zone on their property	1	
	Burdensome and complex regulations cause confusion	1	1
	Question the accuracy of floodplain mapping	2	

Other topics raised

- Floodplains must be protected to preserve fish and wildlife habitat and ensure water quality.
- Timing of the Floodplain Resilience Plan and Economics Opportunity Analysis must be coordinated to proceed faster.
- All areas of the city should have floodplain protections.
- General support for the Floodplain Resilience Plan

Summary of Public Engagement Process

A number of public engagement opportunities (virtual, due to the COVID-19 pandemic) were provided throughout the project, including:

- Public notice of the PSC hearing was sent to all affected property owners (over 3,900 notices).
- Held three virtual Discussion Draft open houses.
- Substantial Tribal government input that was gathered as a part of the River Plan / South Reach (adopted December of 2020) served as guidance for the development of this plan. River Plan / South Reach Tribal engagement included the following efforts:



- Distribution of an Intergovernmental Draft that was released and available to tribes and other governmental agencies for review prior to the release of the first public draft (the Discussion Draft),
 - Willamette River boat tour with Tribal leaders (activities like these were not possible for the Floodplain Resilience Plan due to the COVID-19 pandemic)
 - A number of presentations and discussions on the plan’s proposals with Tribal government staff and the Columbia River Intertribal Fish Commission (CRITFC).
- Hosted a discussion about the use of mitigation banks to address floodplain development impacts at the Tribal Summit in Fall 2021. Many Tribal nations have also been involved in conversations about mitigation banking near OMSI for floodplain impacts.

All of the outreach efforts to Tribal governments have been coordinated with the City’s Tribal Relations Director, Laura John.

- Conducted three virtual focus groups with: (1) members of the Black, Indigenous and People of Color (BIPOC) community (April 2022); (2) Urban Native community (June 2022); and, (3) Environmental stakeholders (May 2022).
- Presented to over a dozen stakeholder groups, including neighborhood associations, community-based organizations, environmental organizations, and others, from November 2021 to July 2022.
- Project helpline was available during the Discussion Draft and Proposed Draft for staff to answer questions from community members.
- Utilized a project listserv to provide periodic updates via email to interested community members through the various project steps.

Coordinating Future Floodplain Updates with the Economic Opportunities Analysis

The next phase of the floodplain work will be tightly coordinated with the Economic Opportunities Analysis. The purpose of the Economic Opportunities Analysis (EOA) is to analyze and forecast growth in Portland’s industrial and other business districts, then designate an adequate 20-year supply of developable land for business and job growth. The EOA update will align 2040 growth expectations with current market trends and will incorporate community input.

The EOA incorporates a number of considerations into its estimate of developable land that include employment forecasts, economic development objectives, environmental considerations, such as floodplain requirements and other natural resource protections, and equity goals. To ensure that the EOA analysis appropriately considers and responds to requirements proposed in the Floodplain Resilience Plan, the Proposed Draft does not propose any amendments to existing environmental regulations in the following industrial/employment zones: Heavy Industrial (IH), General Industrial 2



(IG2) and General Employment 2 (EG2). Changes in these areas will be considered as part of the EOA update, along with the Columbia Corridor Industrial Land Ezone Project that is being conducted in coordination with the EOA to provide adequate protection for natural resources in the corridor.

During the EOA process, City staff will evaluate floodplain and environmental protections in conjunction with the updated economic growth forecast and buildable land inventory, in order to optimize natural resource protection, reduce natural hazard risks and promote economic opportunity. The Economic Opportunities Analysis update is expected to be adopted in 2024.

Non-Industrial/Employment Lands in the Columbia Corridor

A change since the Discussion Draft that was inadvertently left out of the September 27 Staff Report was the removal of the proposed expansion of the Environmental Conservation overlay zone in the Columbia Corridor to encompass all undeveloped floodplains on lots that are not in the three industrial/employment zones described above (IH, IG2, and EG2). These lots were removed from the Proposed Draft to avoid confusion with the proposals of the Columbia Corridor Industrial Land (CCIL) Ezone Project. Had those properties continued to be part of the Floodplain Resilience Plan, many property owners would have received multiple notices and may have the regulations changed on their properties several times in as many years. For example, the Environmental Conservation overlay zone would be applied to a property as a result of the Floodplain Resilience Plan but then the more-strict Environmental Protection overlay zone would be recommended as a part of the Columbia Corridor Industrial Land Ezone Project, based on existing policy direction. These situations would likely result in property owner confusion and frustration. In order to avoid multiple confusing zoning changes to select properties, the changes proposed with current plan will be postponed so that only one change will occur.

Another benefit of including these changes in the EOA/Columbia Corridor Industrial Land Ezone Project package is that a part of the CCIL Ezones Project will be an update to the underlying natural resource protection plans in the Columbia Corridor. Currently, there are four different plans that apply to different portions of the corridor and, in some cases, two or three plans need to be referenced to understand the applicable regulations. The Columbia Corridor Industrial Land Ezone Project will consolidate this information into one document, similar to the updated natural resources documents that were adopted as a part of the Environmental Overlay Zone Map Correction Project in May of 2022.

The breakdown of the expansion of the Environmental Conservation overlay on non-industrial/employment properties that were previously included in Discussion Draft is provided in the table below (note: these numbers are different from the Discussion Draft because the developed floodplain has been removed, similar to the change made to the proposed expansion of the Environmental Conservation and River Environmental overlay zones along Fanno and Tryon creeks and the Willamette River, respectively).



The table shows that almost 77 acres of undeveloped floodplain located on 152 tax lots were proposed for expansion of the Environmental Conservation overlay zone. Of that 77 acres, 52.5 acres (68 percent) are under consideration for an update to the more-restrictive Environmental Protection overlay zone as a part of the CCIL Ezones Project. These estimates demonstrate the importance of waiting to address these areas as a part of the CCIL Ezones Project.

Zoning Designation	Tax Lots (Total)	Proposed Discussion Draft Expansion (acres)	Expected CCIL Ezones Project Environmental Protection Overlay Under Consideration (acres)
<i>Residential</i>			
RF	6	1.4	1.4
R7	18	0.1	
R10	56	9.8	7.2
R20	4	0.1	
RM1	3	0.4	
RMP	2	1.2	
<i>Commercial</i>			
CE	25	10.5	
CM2	3	0.7	0.3
<i>Industrial</i>			
IR	1	0.1	
<i>Open Space</i>			
OS	34	51.3	43.7
TOTAL	152	76.6	52.5

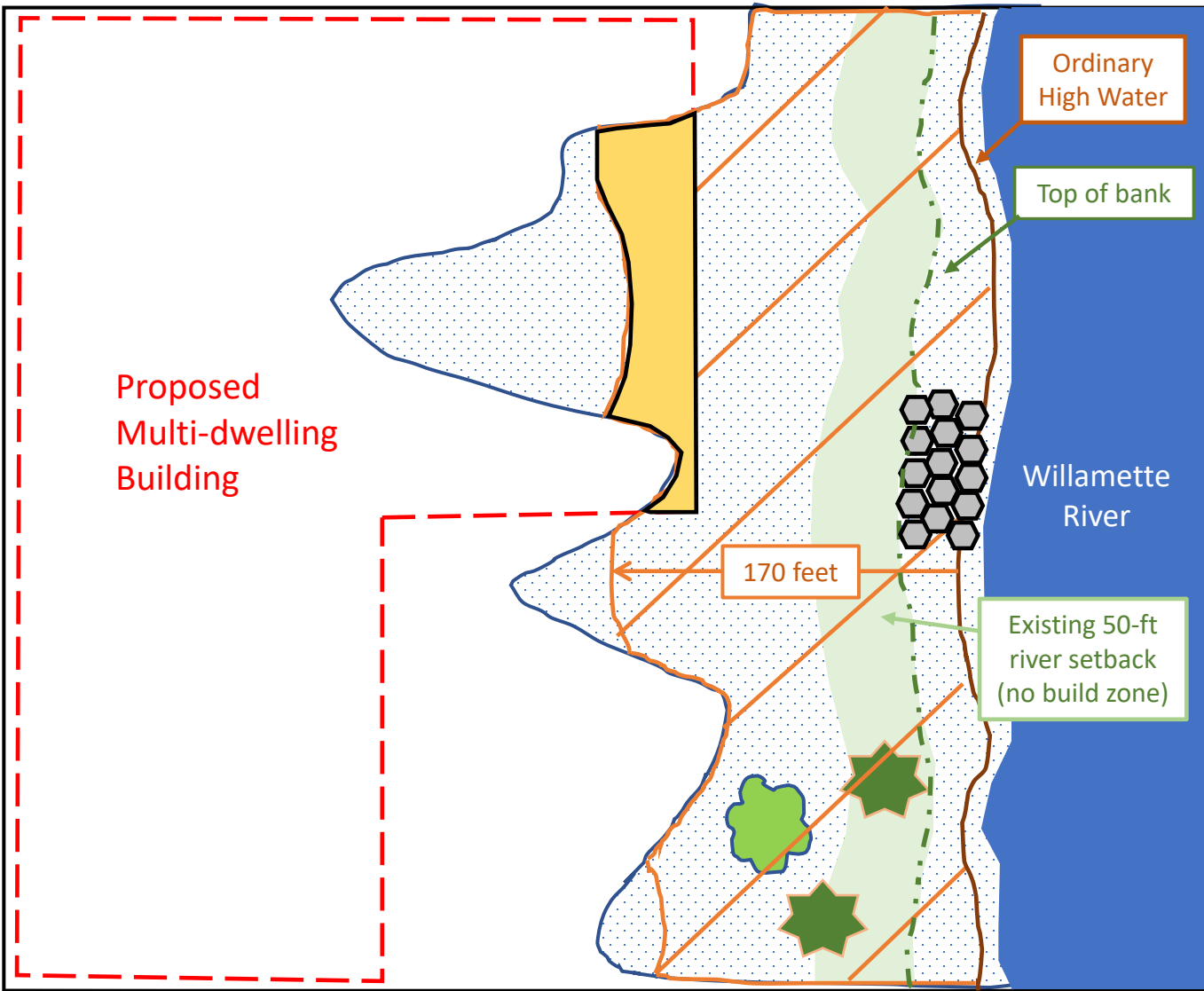
Staff-Proposed Amendments

Based on input received on the Proposed Draft and staff evaluation of the Proposed Draft proposals, a number of important amendments were identified. These proposed amendments include a correction to the extent of the proposed River Environmental overlay zone in the Willamette River South Reach to correct an error in the Discussion Draft; three parcel-specific updates to the proposed extent of the River Environmental overlay zone; parcel-specific modifications to the extent of the riparian buffer area on two properties in Willamette River Central Reach; and a handful of code amendments recommended by BDS. More detail on each of these amendments can be found in Attachment B, and the exhibits contained therein.



Floodplain Resilience Plan

River Environmental Overlay Zone & Riparian Buffer Area (applied to the Willamette River)



Scenario: A Central City developer is proposing to construct a new multi-dwelling building on a property along the Willamette River. A portion of the project will be located in the floodplain, including the riparian buffer area.

How the proposals would affect development:

1. Apply River Environmental (River e) overlay zone and riparian buffer area to all floodplains within 170 feet of ordinary high water. Project must meet the riparian buffer area *and* River e mitigation requirements.
2. To offset development in the riparian buffer area, a project must demonstrate improvement in 1 of 2 floodplain functions that address (a) riverbank function and sediment and pollution control and (b) presence of large wood and reducing streambank armoring and/or structures. Improvements may be anywhere in the riparian buffer area but are likely to be located within the river setback.
3. Project approved through River Review, discretionary review process.

The steps needed to comply with the regulations will depend on the amount of development in the riparian buffer area and site-specific conditions.

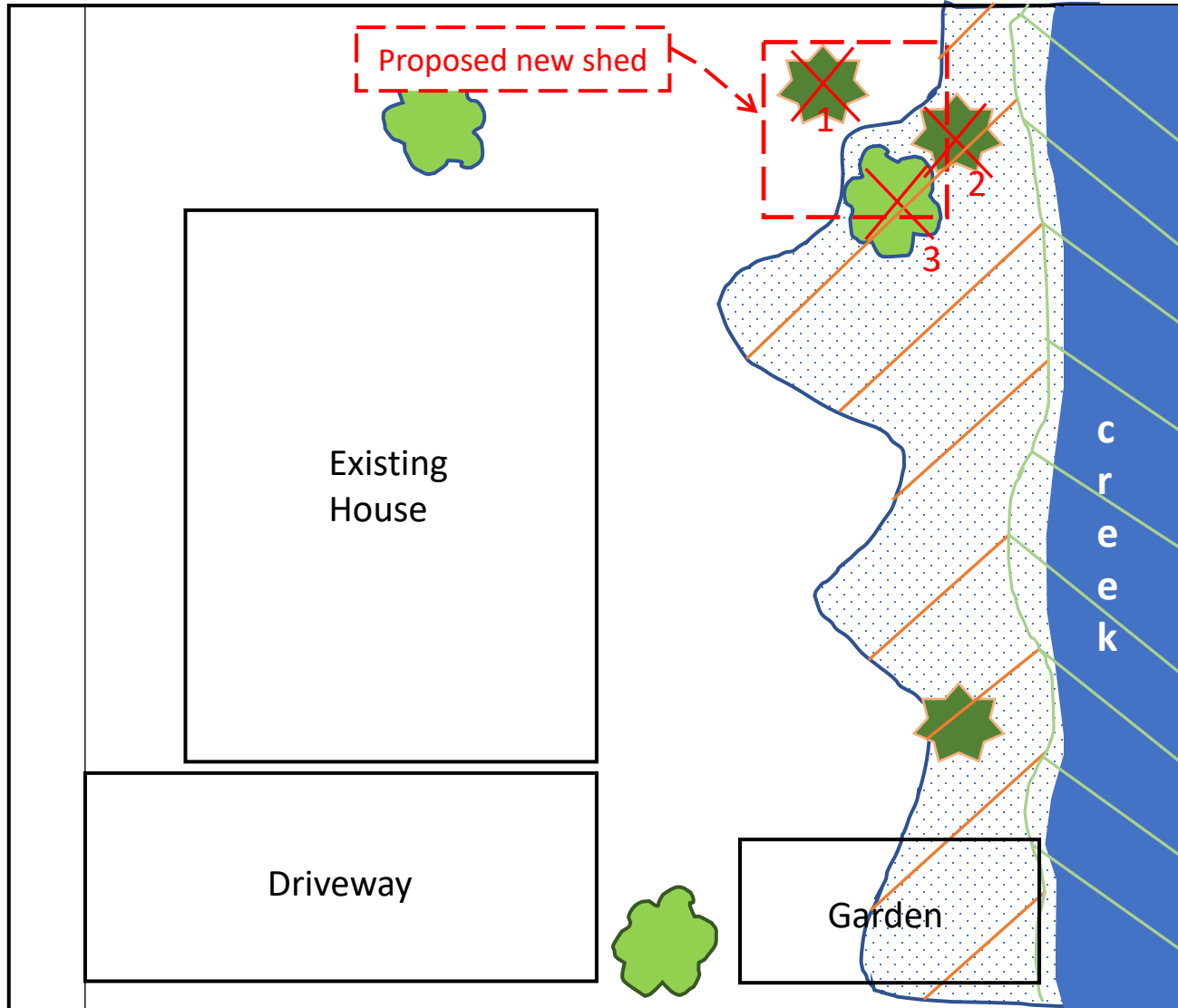
No other applicable changes are proposed to existing River e requirements.

Potential ways to meet the requirements:

- Removing concrete, rip rap or other impervious materials to restore the bank to a natural condition, or
- Laying back the bank to provide shallow water habitat for fish
- Placement of (anchored) large wood along the riverbank

Floodplain Resilience Plan

Environmental Overlay Zones (applied to waterways other than the Willamette River)



Scenario: Homeowner wants to build a new shed in the backyard.

How the proposals would affect development:

Key change: Non- invasive, non-native trees in the floodplain must be mitigated similar to native trees.

Trees #1, #2, and #3 are proposed for removal. Trees #2 and #3 are in the Environmental zone. Proposed tree replacement is as follows:

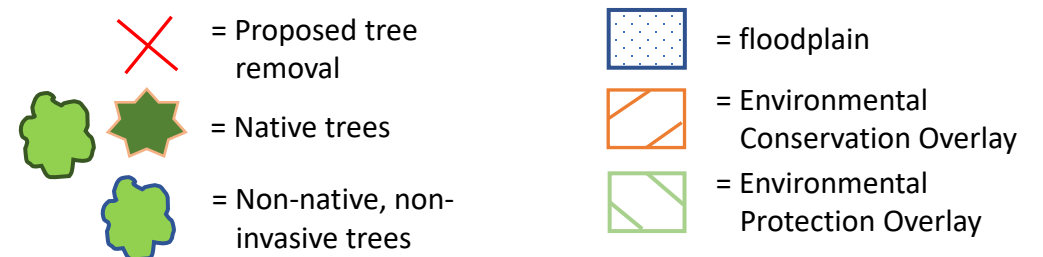
1. Tree #1 (native) – Unaffected by plan’s proposals. (Tree Code applies.)
2. Tree #2 (native) – Minimum of 3 trees required to be planted. Current code requires only 1 or 2 trees for trees smaller than 20 inches diameter-at-breast-height (depending on the option chosen).
3. Tree #3 (non-native) – Minimum of 3 trees required to be planted. Current code exempts non-native trees from meeting e zone requirements when not associated with development. Tree code applies.

New shed would need to meet all other development standards for approval.

No changes are proposed for the garden (or any other existing structures in the floodplain). Use and maintenance can continue as normal.

Ways to meet the requirements:

Applicant must plant at least 6 trees in the floodplain. For replacement of non-native trees, the applicant may pay a revegetation fee in lieu of planting.



Attachment B

Items Marked for Discussion by Staff: A-1

Decision Table A: Staff Recommended Amendments to the Proposed Draft

Ref #	Comment	Commenter(s)	Topic	Comment or Requested Amendment	Staff recommendation	Staff rationale	Discuss?	PSC decision
MAP AMENDMENTS								
<i>Amendments to Proposed River Environmental shown in Map 6</i>								
A-1	N/A	BPS Staff	Proposed South Reach River Environmental overlay zone	Modify the extent of the proposed River Environmental to apply it to the river setback, land within 100 feet of the top of bank, and all high- and medium-ranked riparian resources.	Replace the Map 6, Proposed changes to the River Environmental Overlay Zone in the Willamette River South Reach, on page 52 of the plan with the replacement Map 6 shown in the collection of maps in Decision Table A - Attachment 1 (see page 12).	The proposed River Environmental overlay in the Proposed Draft inadvertently removed medium-ranked riparian resources that were not in the combined flood hazard area.	<input checked="" type="checkbox"/>	<input type="checkbox"/> Support staff rec. <input type="checkbox"/> Other
<i>Property-specific Overlay Zone Amendments</i>								
A-2	332046	Sudha Bajpai	Modification of the River Environmental overlay on 11930 S Riverside Drive	Remove the River Environmental overlay zone where it is applied to the house at 11930 S Riverside Drive and remove an additional area of at least 25 feet around the house.	Remove the River Environmental overlay zone where it is applied to the house, as shown in the collection of maps in Decision Table A - Attachment 1 (see page 13).	Removal of the River Environmental overlay zone from the house is consistent with the methodology utilized in the River Plan/South Reach. Removal of the River Environmental overlay zone from the area within 25 feet is not consistent with the methodology. The site is characterized by Special Habitat Area and medium-ranked tree canopy that is part of contiguous canopy that extends to the Willamette riverbank.	<input type="checkbox"/>	<input type="checkbox"/> Support staff rec. <input type="checkbox"/> Other
A-3	Call with BPS staff	Jim Kurtshaw	Modification of the proposed River Environmental overlay zone and riparian buffer area on Riverfront Place Condominiums site (NW Riverscape St)	Property owner at 1736 NW Riverscape St contacted City staff to request that the River Environmental overlay zone and riparian buffer area proposals be reevaluated because, as a part of the Riverscape development (around 2010), the site was removed from the FEMA 100-year floodplain through a FEMA Letter of Map Amendment based on the site characteristics.	Remove the property from the combined flood hazard area, as the FEMA 100-year floodplain is the only flood map relevant to the site (the Modeled Willamette River 1996 Flood Extent does not extend onto the property). With this modification of the combined flood hazard area, remove the proposed expansion of the River Environmental overlay zone and application of the riparian buffer area on the site. See the modification to the proposed River Environmental and riparian buffer area for this site in the collection of maps in Decision Table A - Attachment 1 (see page 14).	City staff determined that the property had been removed from the FEMA 100-year floodplain through a Letter of Map Amendment and the property should not be considered as a part of the combined flood hazard area. Therefore, the proposed expansion of the River Environmental overlay zone and application of the riparian buffer area on the site is not warranted.	<input type="checkbox"/>	<input type="checkbox"/> Support staff rec. <input type="checkbox"/> Other

Ref #	Comment	Commenter(s)	Topic	Comment or Requested Amendment	Staff recommendation	Staff rationale	Discuss?	PSC decision
A-4	N/A	BPS Staff	Modification of the proposed River Environmental overlay zone and riparian buffer area on Rivage Apartments site (2220 NW Front Ave)	When investigating the Letter of Map Amendment for 1736 NW Riverscape St, it became clear that a portion of this site had also been removed through a Letter of Map Amendment. As a result, the central portion of the site that is currently identified in the FEMA 100-year floodplain should be removed from the combined flood hazard area and the plan proposals should be updated.	Remove the FEMA 100-year floodplain from the combined flood hazard area in the central portion of the property, as the FEMA 100-year floodplain is the only flood map relevant to this portion of the site (the Modeled Willamette River 1996 Flood Extent does not extend onto the property). As a result of this modification to the combined flood hazard area, remove the proposed expansion of the River Environmental overlay zone and application of the riparian buffer area in that portion of the site. See the modification to the proposed River Environmental and riparian buffer area for this site in the collection of maps in Decision Table A - Attachment 1 (see page 15).	City staff determined that the central portion of the property had been removed from the FEMA 100-year floodplain through a Letter of Map Amendment and the property should not be considered as a part of the combined flood hazard area. Therefore, the proposed expansion of the River Environmental overlay zone and application of the riparian buffer area on this portion of the site is not warranted.	<input type="checkbox"/>	<input type="checkbox"/> Support staff rec. <input type="checkbox"/> Other
ZONING CODE AMENDMENTS								
<i>Substantive Amendments & Clarifications</i>								
A-5	332079	BDS Staff	Adopted top of bank in the River Overlay Zones Map 475-2	Clarification is needed in the existing code language in 33.475.210.C as to whether an applicant can map the top of bank using a site-specific survey when the top of bank is shown on Map 475-2. The code reads as follows: "Where top of bank is not shown on Map 475-2, top of bank is determined as described in 33.910.030, Definitions, and 33.930.150, Measuring Top of Bank."	Update code in 33.475.210.C as follows: "C. The river setback. The river setback extends from the top of the bank to a point 50 feet landward of the top of bank. See Figure 475-1. Top of bank is shown on Map 475-2. Where top of bank is not shown on Map 475-2, top of bank is determined as described in 33.910.030, Definitions, and 33.930.150, Measuring Top of Bank. <u>Where top of bank is shown on Map 475-2, applicants may choose to determine top of bank as described in 33.910.030, Definitions, and 33.930.150, Measuring Top of Bank.</u> " For more detail, see Decision Table A - Attachment 2 (page 23).	In reviewing the Central City 2035 Plan commentary (when this code was adopted), it was the intent that an applicant could submit a site-specific survey to confirm top of bank on sites that have an adopted top of bank shown in Map 475-2.	<input type="checkbox"/>	<input type="checkbox"/> Support staff rec. <input type="checkbox"/> Other
A-6	332079	BDS Staff	Adjustments to the landscape standard in the River Overlay Zones (33.475.220)	Allow approval of modifications to the landscape standard in the River Overlay Zones (33.475) through an Adjustment Review. The prescriptive nature of the code section in some cases limits the ability to allow flexibility to address unique situations.	Update the code in 33.475.220 to remove "Adjustments are Prohibited" from the section's introduction text as follows: "The following regulations apply to new development and exterior alterations to existing development in the River General and River Recreational overlay zones. Adjustments are prohibited. " For more detail, see Decision Table A - Attachment 2 (page 23).	BPS staff agree that through the application of the River Overlay Zones landscape standards, it has become clear that the prohibition on the use of Adjustment Review for approval has caused issues for some proposed development along the Willamette River. Staff believes there is adequate guidance in the landscape standards to allow for approval through an Adjustment Review while still meeting the intent of the standards.	<input type="checkbox"/>	<input type="checkbox"/> Support staff rec. <input type="checkbox"/> Other

Ref #	Comment	Commenter(s)	Topic	Comment or Requested Amendment	Staff recommendation	Staff rationale	Discuss?	PSC decision
A-7	332079	BDS Staff	Exemption for public street and sidewalk improvements in the River Overlay Zones (33.475.405.N)	Update the language for exemptions to public street and sidewalk improvements (33.475.405.N) to include freeways, interstates, and ramps. The code definition of "street" excludes these things, which makes the exemption unusable in these areas. Since the current exemption is limited to developed portions of the ROW only, including other types of improvements would not result in increased impacts to resources.	Update code in 33.475.405.N as follows: <p>"N. Public street and sidewalk improvements that are located within the developed portion of a public right-of-way. "</p> <p>For more detail, see Decision Table A - Attachment 2 (page 23).</p>	BPS staff agree that this change is needed because there are a few locations where the River Environmental overlay zone has been applied to freeways and ramps and that the inclusion of these types of improvements would not result in additional impacts to resources.	<input type="checkbox"/>	<input type="checkbox"/> Support staff rec. <input type="checkbox"/> Other
A-8	332079	BDS Staff	Updates to the dredging requirements in the South Waterfront Subdistrict (33.510.253.E.4.c)	The more detailed dredging exemption proposed in the Proposed Draft (33.510.253.E.4.c) only addresses areas outside of the federal navigation channel. Please indicate what applies to areas within the navigation channel. Also, please clarify how this exemption aligns with 33.10.030.C, which states that dredging is regulated in the Willamette River Central and South Reaches only. Note that South Waterfront is not included on Map 475-1.	Update code in 33.510.253.E.4.c as follows: <p>"c. Dredging, channel maintenance, and the removal of materials from the river; and as follows:</p> <ol style="list-style-type: none"> 1. Dredging, channel maintenance and the removal of material within the federal navigation channel. 2. Dredging, channel maintenance, and the removal of materials outside the federal navigation channel as follows: <ul style="list-style-type: none"> • <u>Dredging and the removal of materials in waters that are 35 feet deep or deeper, measured from the ordinary high water mark;</u> or • <u>Channel, slip and berth maintenance that has been approved by the U.S. Army Corps of Engineers.</u> 3. The placement of dredged materials within the River General overlay zone is not exempt." <p>And update code in 33.10.030.C as follows: "C. Clarification for waterbodies. The siting of fills or structures on or over waterbodies is subject to the zoning code provisions. The zoning code does not regulate shipping, dredging, boating, and other similar uses on or in water bodies. The zoning code does regulate dredging in the Willamette River Central and South reaches <u>and the Greenway overlay zone in the South Waterfront Subdistrict of the Central City</u>, but does not regulate dredging on or in any other portion of the Willamette River or any other water body." <p>For more detail, see Decision Table A - Attachment 2 (pages 22 and 26).</p> </p>	Staff intended to include the exemption for dredging within the federal navigation in the Proposed Draft and inadvertently left it out. This amendment addresses that oversight. The changes to the dredging make these requirements consistent with those in the River Overlay Zones (33.475), which apply to the north and south of the South Waterfront Subdistrict. The amendment to 33.10.030.C will clarify that dredging is also regulated in the South Waterfront subdistrict.	<input type="checkbox"/>	<input type="checkbox"/> Support staff rec. <input type="checkbox"/> Other

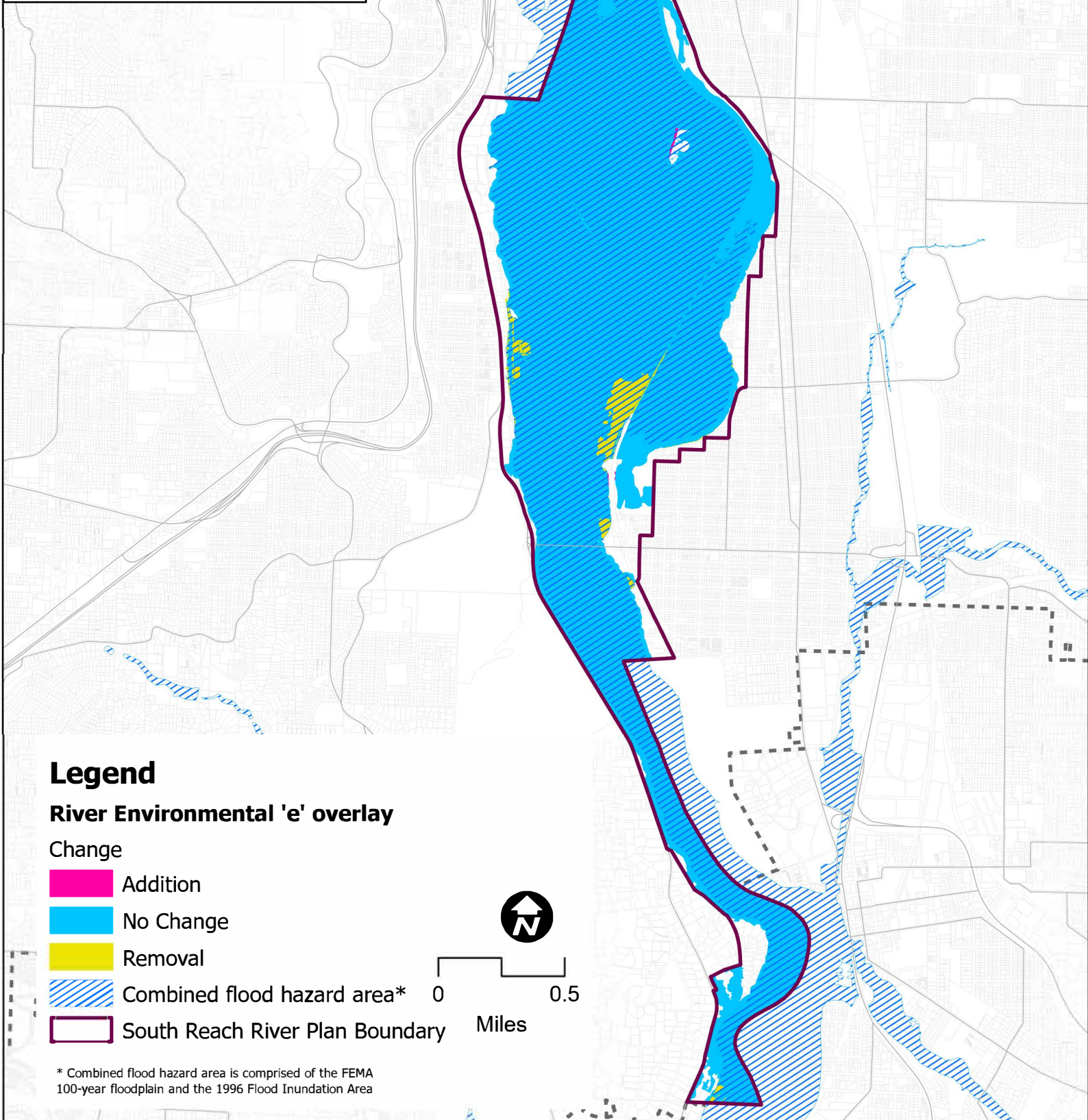
Ref #	Comment	Commenter(s)	Topic	Comment or Requested Amendment	Staff recommendation	Staff rationale	Discuss?	PSC decision
A-9	332079	BDS Staff	Clarify exemptions to tree removal in the South Waterfront Subdistrict (33.510.253.E.4.g.(4))	<p>Revise the tree removal exemption in 33.510.253.E.4.g.(4) to clarify the exemption applies to a combined total diameter of 50 inches.</p> <p>We understand that the intent is to exempt this activity from review, but still require the replanting requirements in the standards (33.510.253.E.5.i). It would be helpful to add a clarification to the exemption that indicates that the replanting requirements apply.</p>	<p>Update code in 33.510.253.E.4.g. as follows: <u>“g. Tree removal as follows. Trees removed must be replaced as shown in Table 510-1.</u></p> <p>(1) <u>Trees on the Nuisance Plants List;</u></p> <p>(2) <u>Dead, dying or dangerous trees or portions of trees when they pose an immediate danger, as determined by the City Forester or certified arborist;</u></p> <p>(3) <u>Trees that exceed the height restriction of a view corridor within special height restrictions designated in the Central City Scenic Resources Protection Plan; or</u></p> <p>(4) <u>In addition to the trees listed above, up to a combined total diameter of 50 inches of non-native, non-nuisance trees.”</u></p> <p>For more detail, see Decision Table A - Attachment 2 (page 27).</p>	Staff agrees that it is important to clarify that the allowed tree removal is a total diameter of 50 inches and that tree removal that is exempt is required to replant per Table 510-1. A similar requirement is in effect in the River Environmental overlay zone requirements (33.475).	<input type="checkbox"/>	<input type="checkbox"/> Support staff rec. <input type="checkbox"/> Other
A-10	332079	BDS Staff	Modifications to lot size and dimensions in single dwelling zones allowed through Environmental Review (33.610.200, 33.611.200, 33.430.280)	<p>Add language to clarify that modifications to lot size and dimensions in single dwelling zones are allowable through Environmental Review. Prior code changes unintentionally removed this allowance, which is an important tool for protecting resources in these zones.</p> <p>The issue was created because 33.610.200 and 33.611.200 state that “Adjustments are prohibited and only provides an option for Planned Development review. 33.430.280 states that the “The review body may not consider modifications to standards for which adjustments are prohibited.” A clarification in 33.610 and 33.611 is needed that alternative lot sizes/ dimensions may be approved through a PD or an EN modification.</p>	<p>Update 33.610.200, 33.611.200 and 33.430.280 to clarify that modifications to lot size and dimensions in single dwelling zones are allowable through Environmental Review. The proposed updates to each of these chapters are identified in the attached collection of code updates.</p> <p>For more detail, see Decision Table A - Attachment 2 (pages 22, 28 and 29).</p>	Staff agrees that these changes are important for ensuring the protection of natural resources in the Environmental Conservation and Environmental Protection overlay zones.	<input type="checkbox"/>	<input type="checkbox"/> Support staff rec. <input type="checkbox"/> Other
<i>Technical Amendments & Clarifications</i>								
A-11	332079	BDS Staff	Update Figure 510-2 in the South Waterfront Subdistrict (33.510.253.)	The text in Figure 510-2 should be updated throughout to include “South Waterfront Greenway <u>Setback</u> Area” throughout.	<p>Update Figure 510-2 to incorporate “setback” into the figure’s text where the “Greenway Area” is identified.</p> <p>For more detail, see Decision Table A - Attachment 2 (page 24).</p>	Not including “setback” was an oversight. It should be included in Figure 510-2.	<input type="checkbox"/>	<input type="checkbox"/> Support staff rec. <input type="checkbox"/> Other

Ref #	Comment	Commenter(s)	Topic	Comment or Requested Amendment	Staff recommendation	Staff rationale	Discuss?	PSC decision
A-12	332079	BDS Staff	Clarify how the proposals apply to 33.631.100	Clarify how the proposed changes to 33.631.100 are intended to apply to existing development located in the combined flood hazard area. Existing language in 631.100.A.2 refers to “all <u>proposed</u> building areas,” which can be interpreted to mean that a lot with an existing building can be created in the flood hazard area provided lots with new building areas are outside. The amended language in 631.100.B.1 would require each lot to have area outside the flood hazard area for allowed or proposed uses. The language should be more consistent and make it clear whether all lots must have buildable area outside of the CFHA.	Update code in 33.631.100.A.2. as follows: “2. Where it is not possible to have all lots outside of the special <u>combined</u> flood hazard area, all <u>existing and proposed</u> building areas must be outside of the special <u>combined</u> flood hazard area.” For more detail, see Decision Table A - Attachment 2 (page 30).	Staff intended for the requirements to apply to both existing and proposed building areas. The standards should be updated to include existing building area.	<input type="checkbox"/>	<input type="checkbox"/> Support staff rec. <input type="checkbox"/> Other

South Reach: Proposed River Environmental overlay zone

DECISION TABLE A - ATTACHMENT 1 MAP AMENDMENTS

Proposed Amendment A-1: Replacement
for Map 6 in the document



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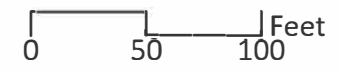
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October 2022 17

Floodplain Resilience Plan

Proposed Removal of River 'e' Overlay

- Legend
- Existing River 'e' Overlay
 - Area of Removal of Overlay Zone Expansion
 - Proposed River 'e' Overlay Zone Expansion
 - Building Footprints

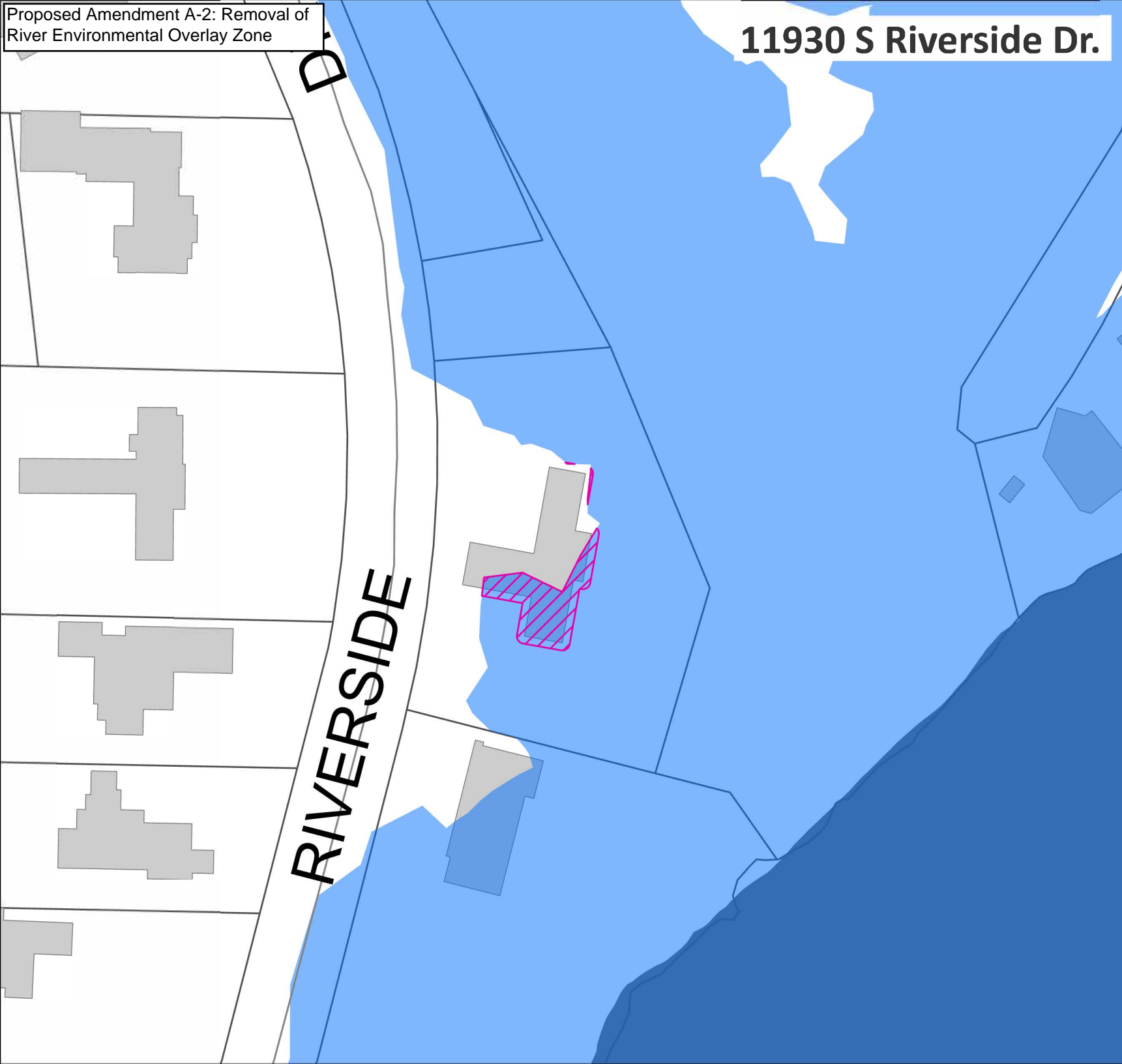


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





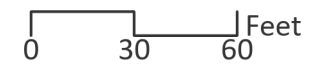
Proposed Amendment A-3: Modify proposed River Environmental overlay zone and riparian buffer area

NW Riverscape St.

October 21, 2022
City of Portland | |
Bureau of Planning and Sustainability | |
Geographic Information Systems

Floodplain Resilience Plan Amendments to the Proposed River 'e' Overlay and Riparian Buffer Area (RBA)

- Legend
-  Area of Removal of Proposed River 'e' Overlay Zone Expansion
 -  Area of Removal of Proposed RBA
 -  Existing River 'e' Overlay
 -  Proposed Riparian Buffer Area (RBA)
 -  Combined FEMA 100-year and 1996 Flood Extents
 -  Building Footprints



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



Proposed Amendment A-4: Modify proposed River Environmental overlay zone and riparian buffer area

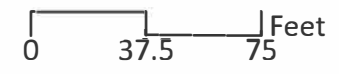
2220 NW Front Ave.

October 21, 2022
City of Portland | |
Bureau of Planning and Sustainability | |
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Floodplain Resilience Plan

Amendments to the Proposed River 'e' Overlay and Riparian Buffer Area (RBA)

- Legend
-  Area of Removal of Proposed River 'e' Overlay Zone Expansion
 -  Area of Removal of Proposed RBA
 -  Existing River 'e' Overlay
 -  Proposed Riparian Buffer Area (RBA)
 -  Combined FEMA 100-year and 1996 Flood Extents
 -  Building Footprints



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DECISION TABLE A - ATTACHMENT 2

CODE AMENDMENTS

(Proposed changes highlighted in gray)

underlined
n in ~~strikethrough~~

33.10 Legal Framework and Relationships

10

33.10.030 When the Zoning Code Applies

A.-B. [No change]

C. **Clarification for waterbodies.** The siting of fills or structures on or over waterbodies is subject to the zoning code provisions. The zoning code does not regulate shipping, dredging, boating, and other similar uses on or in water bodies. The zoning code does regulate dredging in the Willamette River Central and South reaches and the Greenway overlay zone in the South Waterfront Subdistrict of the Central City, but does not regulate dredging on or in any other portion of the Willamette River or any other water body.

D. [No change]

Language to be added is underlined.
Language to be deleted is shown in ~~strike through~~.

33.430 Environmental Zones

430

33.430.280 Modifications That Will Better Meet Environmental Review Requirements

The review body may consider modifications for lot dimension standards or site-related development standards as part of the environmental review process. Except as specified in 33.610.200 and 33.611.200, ~~the~~ review body may not consider modifications to standards for which adjustments are prohibited. Modifications are done as part of the environmental review process and are not required to go through the adjustment process. Adjustments to use-related development standards (such as floor-area ratios, intensity of use, size of the use, number of units, or concentration of uses) are subject to the adjustment process of Chapter 33.805. In order to approve these modifications, the review body must find that the development will result in greater protection of the resources and functional values identified on the site and will, on balance, be consistent with the purpose of the applicable regulations. For modifications to lot dimension standards, the review body must also find that the development will not significantly detract from the livability or appearance of the area.

33.475 River Overlay Zones

475

33.475.210 River Setback

The following regulations apply to new development and exterior alterations to existing development in the River General and River Recreational overlay zones. Adjustments are prohibited.

A.-B. [No change]

- C. The river setback.** The river setback extends from the top of the bank to a point 50 feet landward of the top of bank. See Figure 475-1. Top of bank is shown on Map 475-2. Where top of bank is not shown on Map 475-2, top of bank is determined as described in 33.910.030, Definitions, and 33.930.150, Measuring Top of Bank. Where top of bank is shown on Map 475-2, applicants may choose to determine top of bank as described in 33.910.030, Definitions, and 33.930.150, Measuring Top of Bank.

Where alteration to the river bank carried out to meet 33.475.440.H results in the top of bank shifting landward, the applicant may choose to measure the setback from the original top of bank. When this occurs, a survey of the original top of bank line and new top of bank line must be submitted for verification that the top of bank has been measured according to the standard in 33.930.150, Measuring Top of Bank, and then recorded with the County recorder. In all cases the river setback line must be at least 5 feet landward of the new top of bank line. Before installing the required landscaping, the following standards must be met:

33.475.220 Landscaping

The following regulations apply to new development and exterior alterations to existing development in the River General and River Recreational overlay zones. ~~Adjustments are prohibited.~~

A.-B. [No change]

- C. Landscaped area site preparation.** Before installing the required landscaping, the following standards must be met:

1.-2. [No change]

33.475.405 Items Exempt From These Regulations

The following items are exempt from the River Environmental overlay zone regulations:

A.-M. [No change]

- N.** ~~Public street and sidewalk i~~ mprovements that are located within the developed portion of a public right-of-way.

O.-S. [No change]

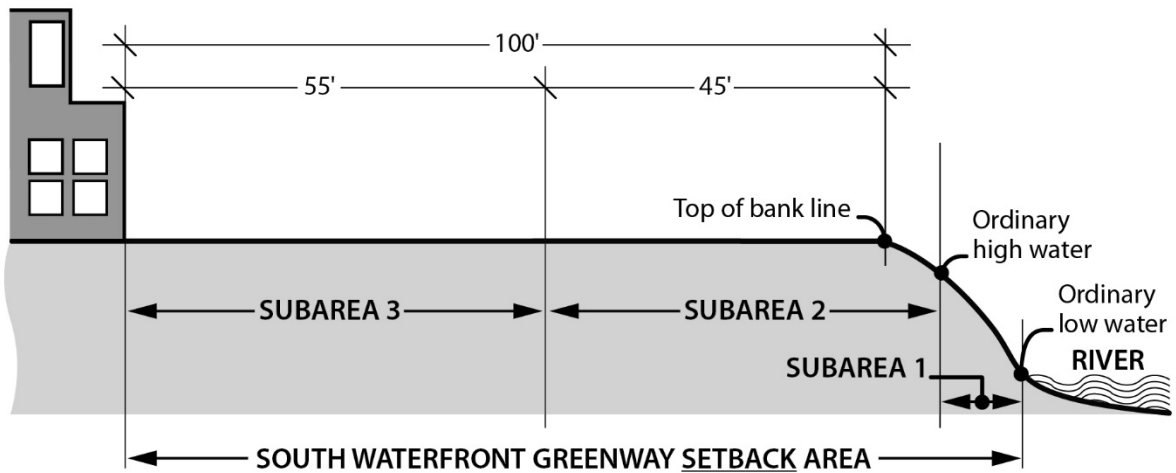
33.510 Central City Plan District

33.510

33.510.253 Greenway Overlay Zone in the South Waterfront Subdistrict

A.-C. [No change]

Figure 510-2
South Waterfront Greenway Setback Area and Subareas



Greenway Setback Area = from ordinary low water to 100' from top of bank line
Subarea 1 = from ordinary low water to ordinary high water
Subarea 2 = from ordinary high water to 45' in from top of bank line
Subarea 3 = from 45' in from top of bank to 100' in from top of bank line

DRAFT

D. Required South Waterfront Greenway Setback Area improvements. Adjustments and modifications to this subsection are prohibited.

1. Required landscaping.

- a. When development on the site, or alterations to structures, the site, or rights-of-way are made, and BDS determines that the value of the proposed alterations on the site is more than \$330,800, the site must be brought into conformance with the landscape requirements of Paragraph E.5.f.g. that apply to subareas 2 and 3 of the South Waterfront Greenway Setback Area. The value of the alterations is based on the entire project, not individual building permits. It is the responsibility of the applicant to document the value of the required improvements.

The following alterations and improvements do not count toward the dollar threshold of this subsection:

(1)-(5) [No change]

- b. [No change]

- c. Supplemental application requirement. Where landscaping is required by this paragraph, the applicant must submit a landscape plan to BDS that shows that the landscaping will grow to meet the landscape standards of Subparagraph E.5.fg., below, within five years. The landscape plan must be certified by a licensed landscape architect, or by a qualified restoration specialist as part of a formal City revegetation project under authority of Portland Parks and Recreation or the Bureau of Environmental Services.
 2. Bank improvements. In subarea 1, when there is any regrading, bank stabilization, or other activities affecting the contours and composition of soil, the requirements of Paragraph E.5.fg. for subarea 1 must be met.
 3. Major public trail and pedestrian connections and public viewpoints. When development on a site, or alterations to structures, the site, or rights-of-way are made that add more than 50,000 square feet of floor area to the site, the applicant must provide public access easements for, and construct, the major public trail, pedestrian connections to the major public trail, and public viewpoints in accordance with Subparagraph E.5.de., and Subparagraph E.5.ef. The requirement to provide an access easement for, and construct, the major public trail, pedestrian connections, and public viewpoints applies only when the development described above will increase the use of the major public trail system or will contribute to the need for additional major public trail facilities, and application of the regulations is determined to be roughly proportional to the impacts of the proposed development. The square footage added to the site is calculated based on the total amount added, regardless of the amount demolished
 4. [No change]
 5. Landscaping monitoring and reporting. Monitoring required landscaping is the ongoing responsibility of the property owners. If landscaping is required by the subsection, the owner must submit a report to BDS documenting that the landscape standards of Subparagraph E.5.fg. below, have been met on the site. The report must be submitted within 1 year of the installation date, or within the timeline approved through a South Waterfront Greenway Review. See Chapter 33.851.
- E. Review thresholds and development standards.** ~~Generally, proposals are subject to design review. In most instances, applicants may choose between meeting development standards or going through South Waterfront greenway review. In some instances South Waterfront greenway review is required.~~
1. ~~Where these regulations apply. The regulations of this subsection apply in the South Waterfront Greenway Area as shown on Figure 510-2. The regulations apply to development and alterations to structures, sites, and rights-of-way.~~

- ~~12.~~ 12. Design review. Within the South Waterfront Greenway Setback Area shown on Figure 510-2, N~~new~~ development, and changes to the land or structures including excavations and fills, bridges, and docks are subject to design review, unless exempted by Paragraph E.4.
- ~~23.~~ 23. South Waterfront greenway review. South Waterfront greenway review is required for the following:
 - a. New development or exterior alterations that do not meet the standards of Paragraph E.5.~~b through E.5.i~~ and are not exempted by Paragraph E.4. South Waterfront greenway review is not required for exterior alterations to nonconforming development in the South Waterfront Greenway Setback Area if the exterior alteration brings the site closer to conformance with the applicable standards in E.5;
 - b. New development, or changes to the land or structures, riverward of top of bank, including excavations and fills, bridges, and docks, unless exempted by Paragraph E.4.
3. Adjustment review. An adjustment, or modification through design review, is required for new development or exterior alterations that do not meet the standards of Paragraph E.5.j and are not exempted by Paragraph E.4.
4. ~~Exemptions from design review and South Waterfront greenway review.~~ The following are exempt from this Subsection:~~design review and South Waterfront greenway review;~~
 - a. Changes to the interior of a building ~~where there are not exterior alterations;~~
 - b. Normal maintenance and repair;
 - ~~c. Excavations and fills of less than 50 cubic yards;~~
 - cd. Dredging, channel maintenance, and the removal of materials from the river; and as follows:
 1. Dredging, channel maintenance, and the removal of material within the federal navigation channel.
 2. Dredging, channel maintenance, and the removal of materials outside the federal navigation channel as follows:
 - Dredging and the removal of materials in waters that are 35 feet deep or deeper, measured from the ordinary high water mark; or
 - Channel, slip and berth maintenance that has been approved by the U.S. Army Corps of Engineers.
 3. The placement of dredged materials within the River General overlay zone is not exempt.
 - de. Emergency procedures necessary for safety or the protection of property;

Language to be **added** is underlined
Language to be **deleted** is shown in ~~strikethrough~~

- ~~f. The placement of up to four single piles, or two multiple-pile dolphins for each 100 feet of shoreline for an existing river dependent or river related use.~~
- ~~eg. Development of public streets identified in the adopted *South Waterfront District Street Plan, Criteria and Standards* are exempt from design review, but not greenway review.~~
- ~~f. Planting of native vegetation listed on the Portland Plant List when planted with hand-held equipment or equipment with a wheel surface-to-ground pressure of no more than 7.5 psi.~~
- ~~g. Tree removal as follows. Trees removed must be replaced as shown in Table 510-1.~~
 - ~~(1) Trees on the Nuisance Plants List;~~
 - ~~(2) Dead, dying or dangerous trees or portions of trees when they pose an immediate danger, as determined by the City Forester or certified arborist;~~
 - ~~(3) Trees that exceed the height restriction of a view corridor within special height restrictions designated in the Central City Scenic Resources Protection Plan; or~~
 - ~~(4) In addition to the trees listed above, up to a combined total diameter of 50 inches of non-native, non-nuisance trees.~~
- 5. Development standards. ~~The following development standards must be met unless the applicant chooses South Waterfront greenway review. Adjustments and modifications to these standards are prohibited.~~
 - a. Where the standards apply.
 - (1) Standards E.5.b through E.5.h apply in the South Waterfront Greenway Setback Area shown on Figure 510-2. South Waterfront greenway review is required for proposals that do not meet the standards. Adjustments to standards E.5.b through E.5.h are prohibited.
 - (2) The standards in E.5.i apply within the combined flood hazard area and within the South Waterfront Greenway Setback Area shown on Figure 510-2. South Waterfront greenway review is required for proposals that do not meet the standards. Adjustments to the standards in E.5.i are prohibited.
 - (3) The standards in E.5.j apply within the River General overlay zone. Adjustments or modifications through design review are allowed for the standards in E.5.j.

33.610 Lots in RF through R5 Zones

610

33.610.200 Lot Dimension Regulations

Lots in the RF through R5 zones must meet the lot dimension regulations of this section.

- A. [No change]
- B. **Minimum lot area.** Each lot must meet the minimum lot area standard stated in Table 610-2. Lots that do not meet the minimum lot area standard may be requested through Planned Development Review or, when the site is in an environmental overlay zone, as a modification through environmental review. ~~Other than as specified in this Subsection,~~ ~~Adjustments~~ are prohibited.
- C. [No change]
- D. **Minimum lot width.** Each lot must meet one of the following regulations. Lots that do not meet these regulations may be requested through Planned Development Review or, when the site is in an environmental overlay zone, as a modification through environmental review. ~~Other than as specified in this Subsection,~~ ~~Adjustments~~ to the regulations are prohibited.
 - 1-2. [No change]
- E. **Minimum front lot line.** Each lot must have a front lot line that meets the minimum front lot line standard stated in Table 610-2. Lots that are created under the provisions of Paragraph D.2 above, may reduce the front lot line to equal the width of the lot. Lots that do not meet the minimum front lot line standard may be requested through Planned Development Review or, when the site is in an environmental overlay zone, as a modification through environmental review. ~~Other than as specified in this Subsection,~~ ~~Adjustments~~ to this standard are prohibited.
- F. **Minimum lot depth.** Each lot must meet the minimum lot depth standard stated in Table 610-2. Lots that do not meet the minimum lot depth standard may be requested through Planned Development Review or, when the site is in an environmental overlay zone, as a modification through environmental review. ~~Other than as specified in this Subsection,~~ ~~Adjustments~~ to this standard are prohibited.
- G. [No change]

33.611 Lots in the R2.5 Zone

611

33.611.200 Lot Dimension Regulations

Lots in the R2.5 zone must meet the lot dimension regulations of this section. Lots that do not meet these regulations may be requested through Planned Development Review or, when the site is in an environmental overlay zone, as a modification through environmental review. ~~Other than as specified in this Subsection, A~~adjustments to the regulations are prohibited.

33.631 Sites in the Combined Flood Hazard Areas

631

33.631.020 Where the Approval Criteria Apply

The approval criteria of this chapter apply to proposals for land divisions where any portion of the land division site is in the ~~special~~ combined flood hazard area.

33.631.100 Flood Hazard Area Approval Criteria

- A. RF through R2.5 zones.** The following criteria must be met in the RF through R2.5 zones:
1. Where possible, all lots must be outside of the ~~special~~ combined flood hazard area; and
 2. Where it is not possible to have all lots outside of the ~~special~~ combined flood hazard area, all existing and proposed building areas must be outside of the ~~special~~ combined flood hazard area.
- B. RM1 through RMP, C, E, I, IR, and CI zones.** The following criteria must be met in the RM1 through RMP, C, E, I, IR, and CI zones:
1. ~~Where possible, e~~ Each lot must have adequate area outside of the ~~special~~ combined flood hazard area to accommodate allowed or proposed uses. This criterion does not apply to river-dependent uses; and
 2. ~~Where it is not possible to create lots that have adequate area outside of the special flood hazard area to accommodate allowed or proposed uses, the following must be met:~~
 - a. ~~Lots must be configured so that development on them will reduce the impact of flooding and to provide the greatest protection for development from flooding;~~
 - b. ~~Lots must be configured so that allowed or proposed uses that are not river-dependent will be able to locate on the highest ground and near the highest point of access, and so that development on the lots can be configured in a manner that will minimize obstruction of floodwaters; and~~
 - e. Where the proposed uses and development are river-dependent, lots must be configured so that development on them will minimize obstruction of floodwaters.
- C. In all zones.** The following criteria must be met in all zones:
1. Services proposed in the ~~special~~ combined flood hazard area must be located and built to minimize or eliminate flood damage to the services; and
 2. [No change]